

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Nick Catone, *et al.*,

Plaintiffs,

—v—

Facebook, Inc., *et al.*,

Defendants.

20-CV-2383 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

Plaintiffs Nick Catone and Nick Catone MMA & Fitness brought suit against Defendants on March 24, 2020. Dkt. No. 4. The docket reflects that Plaintiffs have not served either of the Defendants. On July 2, 2020, the Defendants submitted a letter to the Court indicating that they had not been served and that Plaintiffs had not yet filed a proposed summons. Dkt. No. 8. In their letter, the Defendants requested that the Court set a date by which the action would be dismissed if the Plaintiffs failed to properly serve the Defendants. *Id.* Accordingly, on July 8, 2020, this Court ordered Plaintiffs to file an update on the status of service and to file a corrected civil cover sheet by August 21, 2020. Dkt. No. 9. Plaintiffs did not respond to that Order. On August 27, 2020, the Defendants submitted another letter to the Court, again indicating that Plaintiffs had not complied with Rule 4(m) and again requesting that the Court dismiss this case. Dkt. No. 10.

On August 31, 2020, the Court *sua sponte* extended Plaintiffs' deadline to comply with its previous Order, directing the Plaintiffs to file, by no later than September 8, 2020, a letter showing good cause for their failure to comply with the deadlines set by Rule 4(m)—or, if they

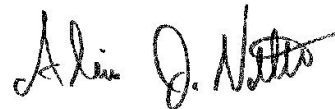
believed that service had been made, to demonstrate when, and in what manner, service was made within 90 days of filing the Complaint. Dkt. No. 11. The Court warned that failure to comply would result in the case being dismissed pursuant to Rule 4(m). As of the date of this Order, the Plaintiffs have not responded.

Rule 4(m) states that if a defendant is “not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). The Court has given Plaintiffs multiple opportunities to respond, and the Plaintiffs have been on notice since early July that failure to properly serve the Defendants would result in the case being dismissed without prejudice. *See* Dkt. Nos. 8–11.

In light of the Plaintiffs’ failure to serve Defendants Facebook, Inc. and Mark Zuckerberg and to respond to this Court’s Orders, this case is DISMISSED without prejudice under Rule 4(m). The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: September 11, 2020  
New York, New York



---

ALISON J. NATHAN  
United States District Judge